

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

HARRY L. BIERLEY,

Petitioner,

V.

WARDEN JAMES VESHECCO,

Respondent.

Civil Action No. 04-363E

JUDGE McLAUGHLIN

CHIEF MAGISTRATE JUDGE BAXTER

ORDER OF COURT

This is a habeas corpus proceeding in which the petitioner, a state prisoner, was pursuing a state court appeal of his 2 to 11 month sentence when the instant petition was filed. The response filed by the Commonwealth was not accompanied by the complete state court record due to the pending state court appeal. The absence of the state court record prevented this Court from ruling on the instant petition. The Court has learned that petitioner's Petition for Allowance of Appeal in the Supreme Court of Pennsylvania at Nos. 579 & 580 WAL 2005 was denied on June 22, 2006, and it appears that the circumstance preventing access to the state court record no longer exists. Thus, the following order is entered:

AND NOW, this 24th day of July, 2006,

IT IS HEREBY ORDERED that the Commonwealth shall supplement its response to the instant petition within 20 days of the service of this order, and shall include with that supplemental response either originals or copies of all relevant state court records. The Commonwealth is directed to address in the response whether or not petitioner is still in state custody at this point.

/s/ Susan Paradise Baxter

SUSAN PARADISE BAXTER

SUSAN PARADISE BAXTER
CHIEF UNITED STATES MAGISTRATE JUDGE